

(f) If the representative does not file an answer within the 30-day time period, he or she does not have the right to present evidence, except as may be provided in § 416.1565(g).

[45 FR 52106, Aug. 5, 1980, as amended at 56 FR 24132, May 29, 1991; 62 FR 38455, July 18, 1997; 63 FR 41418, Aug. 4, 1998; 71 FR 2878, Jan. 18, 2006]

§ 416.1555 Withdrawing charges against a representative.

The Deputy Commissioner for Disability and Income Security Programs (or other official the Commissioner may designate), or his or her designee, may withdraw charges against a representative. We will do this if the representative files an answer, or we obtain evidence, that satisfies us that we should not suspend or disqualify the representative from acting as a representative in dealings with us. When we consider withdrawing charges brought under § 416.1545(d) or (e) based on the representative's assertion that, before or after our filing of charges, the representative has been reinstated to practice by the court, bar, or Federal program or agency that suspended, disbarred, or disqualified the representative, the Deputy Commissioner for Disability and Income Security Programs, or his or her designee, will determine whether such reinstatement occurred, whether it remains in effect, and whether he or she is reasonably satisfied that the representative will in the future act in accordance with the provisions of section 206(a) of the Act and our rules and regulations. If the representative proves that reinstatement occurred and remains in effect and the Deputy Commissioner, or his or her designee, is so satisfied, the Deputy Commissioner, or his or her designee, will withdraw those charges. The action of the Deputy Commissioner, or his or her designee, regarding withdrawal of charges is solely that of the Deputy Commissioner for Disability and Income Security Programs, or his or her designee, and is not reviewable, or subject to consideration in decisions made under §§ 416.1570 and 416.1590. If we withdraw the charges, we shall notify the representative by mail at his or her last known address.

[71 FR 2878, Jan. 18, 2006]

§ 416.1565 Hearing on charges.

(a) *Scheduling the hearing.* If the Deputy Commissioner for Disability and Income Security Programs (or other official the Commissioner may designate), or his or her designee, does not take action to withdraw the charges within 15 days after the date on which the representative filed an answer, we will hold a hearing and make a decision on the charges.

(b) *Hearing officer.* (1) The Associate Commissioner for Hearings and Appeals, or his or her designee, shall assign an administrative law judge, designated to act as a hearing officer, to hold a hearing on the charges.

(2) No hearing officer shall hold a hearing in a case in which he or she is prejudiced or partial about any party, or has any interest in the matter.

(3) If the representative or any party to the hearing objects to the hearing officer who has been named to hold the hearing, we must be notified at the earliest opportunity. The hearing officer shall consider the objection(s) and either proceed with the hearing or withdraw from it.

(4) If the hearing officer withdraws from the hearing, another one will be named.

(5) If the hearing officer does not withdraw, the representative or any other person objecting may, after the hearing, present his or her objections to the Appeals Council explaining why he or she believes the hearing officer's decision should be revised or a new hearing held by another administrative law judge designated to act as a hearing officer.

(c) *Time and place of hearing.* The hearing officer shall mail the parties a written notice of the hearing at their last known addresses, at least 20 days before the date set for the hearing.

(d) *Change of time and place for hearing.* (1) The hearing officer may change the time and place for the hearing. This may be done either on his or her own initiative, or at the request of the representative or the other party to the hearing.

(2) The hearing officer may adjourn or postpone the hearing.